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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,781	02/13/2004	Jose Luis Rey	L7725.04102	4560
24257 7590 12/12/2007 STEVENS DAVIS MILLER & MOSHER, LLP 1615 L STREET, NW SUITE 850 WASHINGTON, DC 20036			EXAMINER JACOBS, LASHONDA T	
			ART UNIT 2157	PAPER NUMBER
			MAIL DATE 12/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/777,781

Applicant(s)

REY ET AL.

Examiner

LaShonda T. Jacobs

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/13/04 and 12/16/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

This Office Action is in response to Applicants' application filed on February 13, 2004.

Claims 1-19 are pending and presented for examination.

### *Information Disclosure Statement*

1. The examiner has considered the Information Disclosure Statement (IDS) filed on February 13, 2004 and December 16, 2005.

### *Specification*

#### **Content of Specification**

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
  - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."
- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the

claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has used a contradictory statement "and/or". The examiner will use the "or" statement.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims **1-19** are rejected under 35 U.S.C. 102(e) as being anticipated by Shimoyama et al (hereinafter, "Shimoyama", U.S. Pat. No. 6,43,496).

As per claim **1**, Shimoyama discloses a method for controlling the transmission data rate of a multimedia data stream in a session-based streaming environment comprising a media server and a destination terminal, wherein a session control protocol is employed to control the multimedia data stream, the method being performed at the media server and comprising the steps of:

- transmitting the multimedia data stream from the media server to the destination terminal according to a multimedia streaming protocol (abstract, and col. 3, lines 28-49, Shimoyama discloses transmitting video or audio data using RTCP/RTP protocols),
- receiving session control data from the destination terminal (col. 3, lines 61-67 and col. 4, lines 1-15, Shimoyama discloses receiving information from the receiving terminal),
- calculating a data rate value of the multimedia data stream based on the session control data (col. 4, lines 1-15 and lines 38-43, Shimoyama discloses calculating data rate for video/audio data), and
- controlling the data rate of the multimedia data stream based on the calculated data rate value (col. 44-65 and col. 6, lines 35-41, Shimoyama discloses sending the packets to the receiving terminal based on the calculated data rate).

As per claim **2**, Shimoyama discloses:

- wherein the session control data comprises time stamps or packet loss report blocks for reporting losses of data packets which are employed to transmit the multimedia data stream or time stamps and packet loss report blocks (col. 4, lines 1-15).

As per claim 3, Shimoyama discloses:

- wherein in the step of calculating, the media server calculates a loss event rate and a round-trip time between the media server and the destination terminal based on the received time stamps and the packet loss report blocks (col. 4, lines 1-15).

As per claim 4, Shimoyama discloses:

- wherein in the step of calculating, the media server calculates the data rate value based on the loss event rate and the round-trip time (col. 4, lines 1-15).

As per claim 5, Shimoyama discloses:

- wherein the media server calculates the data rate value based on a size of the data packets used to transmit the multimedia data stream (col. 8, lines 21-37).

As per claim 6, Shimoyama further discloses:

- the step of initializing a session for the transmission of the multimedia data stream (abstract, and col. 3, lines 28-49).

As per claim 7, Shimoyama discloses:

- wherein the step of initializing comprises transmitting a report interval information to the destination terminal, wherein the time interval between transmissions of session control data from the destination terminal to the media server is determined based on the report interval information (col. 8, lines 21-37).

As per claim 8, Shimoyama discloses:

- wherein the session control data is comprised in receiver reports sent from the destination terminal to the media server according to the RTP/RTCP specifications and extended reports sent from the destination terminal to the media server for reporting a packet loss rate (col. 8, lines 21-37).

As per claim 9, Shimoyama discloses:

- wherein the report interval information comprises report ratio information determining the ratio of the number of said receiver reports and the number of said extended reports. (col. 8, lines 21-48).

As per claim 10, Shimoyama discloses:

- wherein the multimedia data stream and the session control data are transmitted in data packets, wherein the data packets comprise a sequence number and further comprising the step of storing a transmission time and the sequence number of the data packets transmitted to the destination terminal in a memory (col. 8, lines 11-19).

As per claim 11, Shimoyama further discloses:

- estimating the fill-status of a buffer at the destination terminal, wherein the buffer is used for buffering the received multimedia data stream, increasing the data rate of the multimedia data stream, in case the estimated fill-status indicates a possible buffer under-run, and decreasing the data rate of the multimedia data stream, in case the estimated fill-status indicates a possible buffer-overflow (col. 7, lines 23-35).

As per claim 12, Shimoyama discloses:



- wherein the multimedia streaming protocol is the Real-time Transport Protocol (RTP) and the session control protocol is the RTP Control Protocol (RTCP) (col. 7, lines 56-67).

As per claim 13, Shimoyama discloses:

- wherein the session control data used for calculating the data rate value is comprised in at least one of receiver reports, loss report blocks, receiver timestamp report blocks, and delay since last receiver report blocks (col. 8, lines 21-37).

As per claim 14, Shimoyama discloses a media server for controlling the transmission data rate of a multimedia data stream in a session-based streaming environment comprising the media server and a destination terminal, wherein a session control protocol is employed to control the multimedia data stream, the media server comprising:

- transmission means for transmitting the multimedia data stream from the media server to the destination terminal using a multimedia streaming protocol (abstract, and col. 3, lines 28-49, Shimoyama discloses transmitting video or audio data using RTCP/RTP protocols),
- receiving means for receiving session control data from the destination terminal (col. 3, lines 61-67 and col. 4, lines 1-15, Shimoyama discloses receiving information from the receiving terminal),
- calculation means for calculating a data rate value of the multimedia data stream based on the session control data (col. 4, lines 1-15 and lines 38-43, Shimoyama discloses calculating data rate for video/audio data), and

- control means for controlling the data rate of the multimedia data stream based on the calculated data rate value (col. 44-65 and col. 6, lines 35-41, Shimoyama discloses sending the packets to the receiving terminal based on the calculated data rate).

As per claim 15, Shimoyama discloses:

- a media server adapted to perform the method according steps according to one of claims 1 to 13 (col. 3, lines 61-67 and col. 4, lines 1-15).

As per claim 16, Shimoyama discloses:

- a destination terminal adapted to perform communications with a media server according to claim 14 or 15 (abstract, and col. 3, lines 28-49).

As per claim 17, Shimoyama further discloses:

- receiving means for receiving a report interval information from the media server, wherein the time interval between transmissions of session control data and/or the ratio of transmissions of session control data is determined based on the report interval information and transmission means for transmitting session control data to the media server based on the report interval value (col. 8, lines 21-37).

As per claim 18, Shimoyama further discloses:

- a buffer for buffering the received multimedia data stream (col. 7, lines 23-35).

As per claim 19, Shimoyama discloses a media streaming system comprising at least one media server according to claim 14 or 15 and at least one destination terminal according to one of claims 16 to 18 (abstract, and col. 3, lines 28-49).

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 6,853,625 to Burmeister et al

U.S. Pub. No. 2004/0001691 to Li et al

U.S. Pat. No. 6,529,475 to Wan et al

U.S. Pub. No. 2004/0047290 to Komandur et al

U.S. Pat. No. 6,996,624 to LeCroy et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004. The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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LaShonda T Jacobs  
Examiner  
Art Unit 2157

ltj  
December 10, 2007

A handwritten signature in cursive script that reads "LaShonda Jacobs". The signature is written in black ink and is positioned below the printed name and title.